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APPENDIX II.

[Vide item V (1) on page 602.]

L.A. Bill No. 12 of 1962.

A Bill to provide for the levy of tax on the consumption of electrical energy in the State of Madras.

Be it enacted by the Legislature of the State of Madras in the Thirteenth Year of the Republic of India as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Madras Electricity (Taxation on Consumption) Act, 1962.

(2) It extends to the whole of the State of Madras.

(3) It shall be deemed to have come into force on the 1st day of July 1962.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(1) " consumer " with its grammatical variations and cognate expressions, includes any person who consumes energy whether generated by himself or supplied to him.

Explanation I.—Where a licensee consumes energy, whether generated by himself or supplied to him, such licensee shall be deemed to be a consumer only in respect of the energy so consumed.

Explanation II.—Where a licensee or other person consumes energy for purposes connected with the construction, maintenance and operation of the generating, transmitting and distributing system, such licensee or person shall not be deemed to be a consumer in respect of the energy so consumed.

(2) " energy " means electrical energy;

(3) " energy intensive industries " means industries in which the price of energy used in the process of manufacturing or producing the principal product of the industry concerned exceeds 15 per centum of the total cost of the manufacture or production of that product and includes the industries manufacturing or producing the following, namely :—

(i) aluminium.

(ii) bleaching powder;

(iii) calcium carbide;

(iv) caustic soda;

(v) synthetic gem;

(4) " Government " means the State Government;

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(5) " High Tension Supply " means energy supplied at more than 400 volts in respect of alternating current and at more than 440 volts in respect of direct current;

(6) " licensee " means—

(7) " Low Tension Supply " means energy supplied at 400 volts or less in respect of alternating current and at 440 volts or less in respect of direct current;

(8) " person " includes a company, local authority or a licensee;

(i) the State Electricity Board; and

(ii) any person licensed under Part II of the Indian Electricity Act, 1910 (Central Act IX of 1910), to supply energy or any person who has obtained the sanction of the Government under section 28 of that Act to supply energy;

(9) " price of energy " means the money consideration paid by a cosumer to a licensee for the energy supplied by the licensee but does not include—

(i) meter charges;
(ii) interest on delayed payments;
(iii) fuel surcharge; and
(iv) fuse-off call charges and re-connection charges.

Explanation.—(*a*) Where no energy at all has been consumed, minimum charges or fixed charges, as the case may be, shall not be deemed to be ' price of energy '.

(*b*) Where the number of units of energy actually consumed is less than the tariff minimum in respect of the consumer concerned, ' price of energy ' shall mean only the price of energy actually consumed and not the minimum charges or fixed charges, as the case may be;

(10) " State Electricity Board " means the Madras State Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948 (Central Act LIV of 1948);

(11) " textile industry " means any industry in which textiles (including those dyed, printed or otherwise processed)—

(i) made wholly or in part of cotton, including cotton yarn hosiery and rope;

(ii) made wholly or in part of jute, including jute twine and rope;

(iii) made wholly or in part of wool, including wool tops, woolen yarn, hosiery, carpets and druggets;

(iv) made wholly or in part of silk, including silk yarn and hosiery;

(v) made wholly or in part of synthetic, artificial (man-made) fibres, including yarn and hosiery of such fibres,

are manufactured or produced.

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3. *Levy of tax on consumption of energy.*—(1) (*a*) Save as otherwise provided in this Act, there shall be levied and paid to the Government every month, a tax on the consumption of energy (hereinafter referred to as the electricity tax).

(*b*) The electricity tax shall be calculated at the following rates on the basis of the price of energy consumed by the consumer, namely :—

(i) High Tension Supply subject to items (ii) to (iv).	Twenty per centum of the price of energy consumed.
(ii) High Tension Supply for textile industry.	Thirty per centum of the price of energy consumed.
(iii) High Tension Supply for cement industry.	Ten per centum of the price of energy consumed.
(iv) High Tension Supply for energy intensive industries.	Five per centum of the price of energy consumed.
(v) Low Tension Supply.	Ten per centum of the price of energy consumed in all cases :

Provided that the rate of electricity tax in respect of consumers under High Tension Supply and liable to pay fuel surcharge shall be five per centum of the price of energy consumed.

(2) Where the energy supplied to a consumer is not determined by a meter, but is determined in accordance with any formula adopted by the licensee, the electricity tax shall be calculated on the basis of the price of the energy determined in accordance with such formula.

4. *Energy consumed by Government of India or railway company not liable to tax.*—Notwithstanding anything contained in this Act, no electricity tax shall be levied under this Act on the energy consumed by the Government of India or consumed in the construction, maintenance or operation of any railway by the Government of India or a railway company operating that railway.

Explanation.—The expression 'railway' in this section shall have the meaning assigned to it in clause (20) of Article 366 of the Constitution.

5. *Payment of electricity tax.*—(1) Every licensee shall collect from the consumer and pay to the Government at the time and in the manner prescribed, the electricity tax payable under this Act in respect of the energy supplied by him to the consumer. The

tax so payable shall be a first charge on the amounts recoverable by such licensee for the energy supplied by him and shall be a debt due by him to the Government.

(2) Every person (other than a licensee) who consumes energy generated by himself, or every licensee who consumes energy, whether generated by himself or supplied to him, or every person who supplies energy to any other person free of charge, shall pay, or collect and pay, as the case may be, to the Government, at the time and in the manner prescribed, the electricity tax payable under this Act on the basis of the price of energy consumed by himself or by such other person.

Explanation.—For the purposes of this sub-section, the price of energy consumed shall be determined in the manner prescribed.

(3) The Government may pay as collection charges to every person collecting electricity tax under this section, such amount as may be prescribed :

Provided that such amount shall not exceed one per centum of the electricity tax collected by such person.

(4) When any consumer fails or neglects to pay at the time and in the manner prescribed the amount of electricity tax due from him, the licensee or, as the case may be, the person supplying energy free of charge, may, without prejudice to the right of the Government to recover the amount under section 8—

(i) deduct such amount of electricity tax from the amount, if any deposited by the consumer with the licensee or the person supplying energy free of charge; or

(ii) after giving not less than seven clear days' notice in writing to the consumer, cut off supply of energy to the consumer; and the licensee or the person supplying energy free of charge may, for that purpose, exercise the power conferred on a licensee by sub-section (1) of section 24 of the Indian Electricity Act, 1910 (Central Act IX of 1910), for the recovery of any charge or sum due in respect of energy supplied by him.

6. *Obligation of licensee to keep books of account and to submit returns.*—Every person who generates energy by himself and every licensee shall keep books of account, in the prescribed form and submit to the Government or to the prescribed officer, returns in such form and at such times as may be prescribed, showing,—

(i) the units and price of energy consumed by him or supplied by him to each consumer, as the case may be;

(ii) the amount of electricity tax payable thereon and recovered or paid by him under this Act; and

(iii) such other particulars as may be prescribed.

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7. *Inspecting Officers.*—(1) The Government may, by notification, appoint Inspecting Officers to inspect the prescribed books of account kept under section 6.

(2) The Inspecting Officers shall perform such duties and exercise such powers as may be prescribed for the purpose of carrying into effect the provisions of this Act and the rules made thereunder.

(3) Every Inspecting Officer appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860), and the Prevention of Corruption Act, 1947 (Central Act II of 1947).

8. *Recoveries.*—Any sum due on account of electricity tax, if not paid at the time and in the manner prescribed, shall be deemed to be in arrears, and thereupon such interest not exceeding twelve per centum per annum which the Government may, by general or special order fix, shall be payable on such sum; and the sum, together with any interest thereon, shall be recoverable either through civil court or as an arrear of land revenue,—

(i) if the sum was payable under sub-section (1) of section 5, either from the consumer or from the licensee, at the option of the Government or of the prescribed officer;

(ii) if the sum was payable under sub-section (2) of section 5,—

(*a*) in any case where any person other than a licensee consumes energy generated by himself, from such person; or

(*b*) in any case where the licensee consumes energy generated by himself or supplied to him, from such licensee; or

(*c*) in any case where any person supplies energy free of charge, from the consumer or from the person supplying energy free of charge, at the option of the Government or of the prescribed officer.

9. *Decision of certain disputes.*—(1) If any dispute arises regarding—

(i) the liability to pay electricity tax under this Act; or

(ii) the rate or the amount of electricity tax payable under this Act,

such dispute shall be decided by the Electrical Inspector appointed under sub-section (1) of section 36 of the Indian Electricity Act, 1910 (Central Act IX of 1910) and having jurisdiction. The decision of the Electrical Inspector shall, subject to the provisions of sub-section (2), be final.

(2) From every decision of the Electrical Inspector under sub-section (1), an appeal shall, within such time as may be prescribed, lie to the Government whose decision thereon shall be final.

10. *Penalties.*—If any person—

(*a*) liable under section 6 to keep books of account or submit returns, fails to keep or submit the same in the manner prescribed; or

(*b*) intentionally obstructs an Inspecting Officer appointed under section 7 in the exercise of his powers or the performance of his duties under this Act or the rules made thereunder; or

(*c*) contravenes any rule made under this Act;

he shall be punished with fine which may extend to one thousand rupees.

11. *Offences by companies.*—(1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section—

(*a*) 'company' means any body corporate and includes a firm or other association of individuals; and

(*b*) 'director' in relation to a firm means a partner in the firm.

12. *Exemption from tax.*—(1) Where energy under High Tension Supply is consumed in the process of manufacturing or producing the principal product in any industrial undertaking licensed under the Industries (Development and Regulation) Act, 1951 (Central Act LXV of 1951), no electricity tax shall be payable on the energy so consumed for a period of three years from the date of the commencement of the manufacture or production of the principal product in such undertaking.

(2) For the purposes of sub-section (1), if any question arises in regard to the date of the commencement of the manufacture or production of the principal product, the question shall be decided

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by the prescribed officer in accordance with such procedure as may be prescribed and his decision thereon shall be final.

13. *Power of Government to notify exemptions and reductions.*—(1) The Government may, by notification, make an exemption or reduction in rate, in respect of the electricity tax payable under this Act by any specified class of persons, having regard to all or any of the following matters, namely :—

(*a*) the nature of the business or industry carried on by such class of persons;

(*b*) the price of energy consumed in relation to the total cost of the manufacture or production of the principal product in any industrial undertaking owned or controlled by such class of persons;

(*c*) such other matters as may be prescribed.

(2) Any exemption from electricity tax or reduction in the rate of electricity tax notified under sub-section (1) may be subject to such restrictions and conditions as may be specified in the notification.

(3) The Government may, by notification, cancel or vary any notification issued under sub-section (1).

14. *Effect of Madras Act V of* 1939.—The provisions of this Act shall be in addition to, and not in derogation of, the Madras Electricity Duty Act, 1939 (Madras Act V of 1939).

15. *Power to make rules.*—(1) The Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) all matters expressly required or allowed by this Act to be prescribed;

(*b*) the procedure to be followed by the Electrical Inspector for deciding disputes under sub-section (1) of section 9;

(*c*) the procedure to be followed by the Government for deciding appeals under sub-section (2) of section 9;

(*d*) the manner of determining the total cost of the manufacture or production of the principal product for purposes of clause (3) of section 2 and clause (*b*) of sub-section (1) of section 13;

(*e*) the installation of meters by persons who consume energy generated by themselves.

16. *Power to remove difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

17. *Publication of rules and placing of rules and orders before the Legislature.*—(1) All rules made under section 15 shall be

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published in the *Fort St. George Gazette* and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.

(2) Every rule made under section 15 and every order made under section 16 shall, as soon as possible after it is made, be placed on the table of both Houses of the Legislature, and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or order or both Houses agree that the rule or order should not be made, the rule or order shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or order.

18. *Act to be subject to Article* 288.—This Act shall have effect subject to the provisions of Article 288 of the Constitution

I certify that this is a Money Bill.

Fort St. George, Madras, S. CHELLAPANDIAN,
30th July 1962. *Speaker, Madras Legislative Assembly.*

APPENDIX III.

[Vide item V (2) on page 614.]

L.A. Bill No. 9 of 1962.

(As passed by the Assembly.)

A Bill further to amend the Madras Betting Tax Act, 1935.

BE it enacted by the Legislature of the State of Madras in the Thirteenth Year of the Republic of India as follows :—

1. *Short title.*—This Act may be called the Madras Betting Tax (Amendment) Act, 1962.

2. *Amendment of sections* 4 *and* 5, *Madras Act XX of* 1935.—In the proviso to sub-section (2) of section 4 and in the proviso to sub-section (2) of section 5 of the Madras Betting Tax Act, 1935 (Madras Act XX of 1935) (hereinafter referred to as the principal Act), for the words " twelve and a half per cent ", the words " twenty-five per cent " shall be substituted.

3. *Amendment of section* 7, *Madras Act XX of* 1935.—In section 7 of the principal Act, for the words " five hundred rupees " the words " one thousand rupees " shall be substituted.